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Docket No.: 10013500-1
(PATENT)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Joubert Berger et al.

Application No.: 10/013,043   Confirmation No.: 7770

Filed: October 30, 2001   Art Unit: 2191

For: SYSTEM AND METHOD FOR INSTALLING   Examiner: Q. Nahar
      APPLICATIONS IN A TRUSTED
      ENVIRONMENT

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As required under § 41.37(a), this brief is filed within two months of the Notice of
Appeal filed in this case on July 5, 2006, and is in furtherance of said Notice of Appeal.

The fees required under § 41.20(b)(2) are covered by the Appeal Brief filed October
3, 2005.

This brief contains items under the following headings as required by 37 C.F.R.
§ 41.37 and M.P.E.P. § 1206:

I.	Real Party In Interest
II	Related Appeals and Interferences
III.	Status of Claims
IV.	Status of Amendments
V.	Summary of Claimed Subject Matter
VI.	Grounds of Rejection to be Reviewed on Appeal

25674349.1

I.   REAL PARTY IN INTEREST

The real party in interest for this appeal is:

Hewlett-Packard Development Company, L.P., a Limited Partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249, Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II.   RELATED APPEALS, INTERFERENCES, AND JUDICIAL PROCEEDINGS

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III.   STATUS OF CLAIMS

A.   Total Number of Claims in Application

There are 25 claims pending in application.

B.   Current Status of Claims

1.   Claims canceled: None

2.   Claims withdrawn from consideration but not canceled: None

3.   Claims pending: 1-25

4.   Claims allowed: None

5.   Claims rejected: 1-25

C.   Claims On Appeal

The claims on appeal are claims 1-25

IV.   STATUS OF AMENDMENTS

A Final Office Action rejecting the claims of the present application was mailed June 13, 2005. In response, Applicant did not file an Amendment After Final Rejection, but instead filed a Notice of Appeal on August 1, 2005, followed by a supporting appeal brief on October 3, 2005. In response to a notice of non-compliant appeal brief, an amended appeal brief was then submitted January 17, 2006.

In response to the amended appeal brief, the Examiner did not submit an Answer, but instead mailed a new Office Action on April 4, 2006 (hereinafter "New Office Action") that reopens prosecution, withdraws the previous rejections, and raises new grounds of rejection for the claims. Because Appellant maintains that the new grounds of rejection raised in the New Office Action are also improper, Appellant reinstated the appeal by filing a notice of appeal dated July 5, 2006, which this brief supports. Accordingly, the claims on appeal are those as rejected in the Final Office Action of June 13, 2005, and again rejected in the New Office Action of April 4, 2006. A complete listing of the claims is provided in the Claims Appendix hereto.

V.   SUMMARY OF CLAIMED SUBJECT MATTER

The following provides a concise explanation of the subject matter defined in each of the separately argued claims involved in the appeal, referring to the specification by page and line number and to the drawings by reference characters, as required by 37 C.F.R. § 41.37(c)(1)(v). Each element of the claims is identified by a corresponding reference to the specification and drawings where applicable. It should be noted that the citation to passages in the specification and drawings for each claim element does not imply that the limitations from the specification and drawings should be read into the corresponding claim element.

One claimed embodiment, such as that of independent claim 1, is directed toward a method for installing an application (120) in a trusted operating system (100) comprising enabling selection of an application (120) from one or more applications (120), enabling

dragging of a graphical representation of the selected application (120) towards a graphical representation of a compartment (140, 141, 142, 143, 144, 145, 146, 147) of the trusted operating system (100), enabling dropping of the graphical representation of the application (120) on the graphical representation of the compartment (140, 141, 142, 143, 144, 145, 146, 147) and automatically installing the selected application (120) in the selected compartment (140, 141, 142, 143, 144, 145, 146, 147) in response to the dropping of the graphical representation of the selected application (120). (at least at page 3, lines 19-32; page 5, lines 20-32; page 6, lines 12-22; page 7, lines 1-31; page 8, lines 1-20; page 9, lines 1-8 and 22-31; page 10, lines 1-23; and figures 1, 2A-2D and 3).

In certain embodiments, such as that of dependent claim 2, the method further comprises automatically determining one or more supporting resources associated with the selected application. The method further comprises automatically retrieving the supporting resources, and automatically installing the supporting resources within the selected compartment (*see* page 10, lines 8-23).

Another claimed embodiment, such as that of independent claim 12, is directed toward a method for installing an application (120) in a compartment-based trusted operating system (100) comprising displaying a graphical representation of a plurality of compartments (140, 141, 142, 143, 144, 145, 146, 147) of the trusted operating system (100), enabling dragging of a graphical representation of the application (120) towards a graphical representation of a compartment (140, 141, 142, 143, 144, 145, 146, 147) of the plurality of compartments(140, 141, 142, 143, 144, 145, 146, 147), enabling dropping of the graphical representation of the application (120) on the graphical representation of the compartment (140, 141, 142, 143, 144, 145, 146, 147) and automatically installing the application (120) in the selected compartment (140, 141, 142, 143, 144, 145, 146, 147) in response to the dropping of the graphical representation of the compartment (140, 141, 142, 143, 144, 145, 146, 147). (at least at page 3, lines 19-32; page 5, lines 20-32; page 6, lines 12-22; page 7, lines 1-31; page 8, lines 1-20; page 9, lines 1-8 and 22-31; page 10, lines 1-23; and figures 1, 2A-2D and 3).

In certain embodiments, such as that of dependent claim 13, the method further comprises automatically determining one or more supporting resources associated with the

application. The method further comprises automatically retrieving the supporting resources, and automatically installing the supporting resources within the selected compartment (*see* page 10, lines 8-23).

Another claimed embodiment, such as that of independent claim 17, is directed toward a graphical software installation tool (102) for installing an application (120) in a trusted operating system (100) comprising a graphical user interface (110) comprising a display portion (116) displaying at least one compartment (140, 141, 142, 143, 144, 145, 146, 147) of the trusted operating system (100) and an application portion (114) comprising a graphical representation of at least one application (120), the graphical representation of the at least one application (120) operable to be dragged from the application portion (114) to the display portion (116), wherein dropping of the graphical representation of the at least one application (120) on a graphical representation of the at least one compartment (140, 141, 142, 143, 144, 145, 146, 147) causes automatic installation of the application (120) in the compartment (140, 141, 142, 143, 144, 145, 146, 147). (at least at page 3, lines 19-32; page 5, lines 20-32; page 6, lines 12-22; page 7, lines 1-31; page 8, lines 1-20; page 9, lines 1-8 and 22-31; page 10, lines 1-23; and figures 1, 2A-2D and 3).

In certain embodiments, such as that of dependent claim 18, the graphical software installation tool further comprises means (e.g., software code of graphical software installation tool 102 of FIGURE 2A) for automatically determining one or more supporting resources associated with the at least one application. The graphical software installation tool further comprises means (e.g., software code of graphical software installation tool 102 of FIGURE 2A) for automatically retrieving the supporting resources, and means (e.g., software code of graphical software installation tool 102 of FIGURE 2A) for automatically installing the supporting resources within the at least one compartment (*see* page 10, lines 8-23).

Another claimed embodiment, such as that of independent claim 22, is directed toward a method for installing an application (120) in a trusted operating system (100) comprising enabling selection of an application (120) from one or more applications (120), enabling association of the selected application (120) with a compartment (140, 141, 142, 143, 144, 145, 146, 147) of the trusted operating system (100) and automatically installing the selected application (120) in the selected compartment (140, 141, 142, 143, 144, 145,

146, 147) in response to the association of the selected application (120) with the selected compartment (140, 141, 142, 143, 144, 145, 146, 147). (at least at page 3, lines 19-32; page 5, lines 20-32; page 6, lines 12-22; page 7, lines 1-31; page 8, lines 1-20; page 9, lines 1-8 and 22-31; page 10, lines 1-23; and figures 1, 2A-2D and 3).

In certain embodiments, such as that of dependent claim 23, enabling association of the selected application comprises enabling dragging of a graphical representation of the selected application towards a graphical representation of the selected compartment; and enabling dropping of the graphical representation of the selected application on the graphical representation of the selected compartment (*see* at least at page 3, lines 19-32; page 5, lines 20-32; page 6, lines 12-22; page 7, lines 1-31; page 8, lines 1-20; page 9, lines 1-8 and 22-31; page 10, lines 1-23; and figures 1, 2A-2D and 3).

VI.　　GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-3, 6-7, 9-19, and 21-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,687,745 to Franco (hereinafter "*Franco*") in view of U.S. Patent No. 5,850,511 to Stoecker et al. (hereinafter "*Stoecker*").

Claims 4-5, 20, and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Franco* in view of *Stoecker* and further in view of U.S. Patent No. 6,550,061 to Bearden et al. (hereinafter "*Bearden*").

Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Franco* in view of *Stoecker* and further in view of U.S. Patent No. 6,795,963 to Anderson et al. (hereinafter "*Anderson*").

Appellant notes that the above grounds of rejections raised in the New Office Action are the same as those raised in the Final Office Action of June 13, 2005 but with *Stoecker* further applied in each instance.

VII.   ARGUMENT

Appellant respectfully traverses the outstanding rejections of the pending claims, and requests that the Board reverse the outstanding rejections in light of the remarks contained herein. The claims do not stand or fall together. Instead, Appellant presents separate arguments for various independent and dependent claims. Each of these arguments is separately argued below and presented with separate headings and sub-heading as required by 37 C.F.R. § 41.37(c)(1)(vii).

A. Rejections Under 35 U.S.C. § 103(a) over *Franco* in view of *Stoecker*

Claims 1-3, 6-7, 9-19, and 21-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Franco* in view of *Stoecker*. Appellant respectfully traverses these rejections below.

To establish a prima facie case of obviousness, three basic criteria must be met. *See* M.P.E.P. § 2143. First, there must be some suggestion or motivation, either in the applied references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the applied references must teach or suggest all the claim limitations. Without conceding any other criteria, Appellant respectfully asserts that the combination of *Franco* and *Stoecker* fails to teach or suggest all of the claim limitations, and the New Office Action fails to properly establish sufficient motivation for combining the *Franco* and *Stoecker* references, as discussed further below.

1. The Applied Combination Fails to Teach or Suggest All Claim Elements

Independent Claim 1 and Dependent Claims 3, 6-7, and 9-11

Independent claim 1 recites:

> A method for installing an application in a trusted operating system, comprising:
>> enabling selection of an application from one or more applications;
>> enabling dragging of a graphical representation of said selected
> application towards a graphical representation of a compartment of said
> trusted operating system;

enabling dropping of said graphical representation of said application on said graphical representation of said compartment; and

automatically installing said selected application in said selected compartment in response to said dropping of said graphical representation of said selected application.

As discussed further below, the combination of *Franco* and *Stoecker* fails to teach or suggest all of the above elements of claim 1. For instance, the applied combination fails to teach or suggest a trusted operating system or a compartment of such a trusted operating system. Further, the applied combination fails to teach or suggest a graphical representation of such a compartment. Further still, while *Franco* appears to mention dragging and dropping of applications onto a recipient computer (e.g., onto the recipient computer's desktop), neither *Franco* nor *Stoecker* teaches or suggests dragging and dropping an application on a graphical representation of a compartment and automatically installing the application in the selected compartment in response to such dropping.

Franco appears to disclose a system for storing an interactive link (e.g., a hyperlink) on a client computer to a remote resource (*Franco*, abstract, column 5, lines 10-17). *Franco* also appears to disclose that the link to the remote resource may comprise a graphical element or representation, such as on a desktop, such that a user may select the element to initiate communications with the remote resource (*Franco*, column 20, lines 1-15). However, *Franco* does not disclose or even suggest "a graphical representation of a compartment of a trusted operating system" (emphasis added) as recited by claim 1, nor does the Examiner explicitly identify any such disclosure in *Franco*. Such identification of any such graphical representation was also lacking in the Examiner's rejection in the Final Office Action mailed June 13, 2005, as noted in Appellant's previous appeal brief.

The portions of *Franco* relied upon by the Examiner in the New Office Action in rejecting claim 1 are col. 4, lines 18-24, and col. 19, line 64 – col. 20, line 14 (*see* page 3 of the New Office Action), which are produced hereafter for the Board's convenience:

> It is still another object and advantage of this invention to provide graphical representations of interactive links to remotely stored applications and information, the graphical representations being downloadable to and transferable between one or more client computers for selectively retrieving and presenting remotely stored applications and information on each of the client computers. *(Col. 4, lines 18-24).*

...

      Firstly, the transmitting message (e.g., email message) may include a droplet-enabled application and/or information in a file format as an attachment. If the recipient computer is droplet-enabled, i.e., operating in a similar way as client computer 20 wherein the droplet presentation client 25 is locally installed, then the attachment appears as a known file type and the recipient may open the droplet-enabled application and/or information file immediately. Once opened, the link to the droplet-enabled survey application may be downloaded (e.g., dragged and dropped) on the recipient computer. As a result, the file attachment is copied onto a desktop or other location on the recipient computer (e.g., the "start" menu). Once downloaded, the link (e.g., graphical representation 320 of the link) may be selected to initiate the communication connection 54 to the application server 40 so that the droplet-enabled survey application and/or information may be executed and/or retrieved as discussed above. *(Col. 19, line 64 – col. 20, line 14).*

As can be seen from the above, *Franco* appears to disclose a graphical representation of an interactive link (e.g., hyperlink) that can be downloaded to a recipient computer (e.g., dragged and dropped to the recipient computer's desktop), and the downloaded graphical representation can then be selected by a user to initiate the corresponding communication connection. Again, *Franco* provides no teaching or suggestion of a trusted operating system that comprises compartments, nor does *Franco* teach or suggest a graphical representation of such a compartment onto which its graphical representation of an interactive link can be dragged and dropped.

The New Office Action concedes that *Franco* fails to teach or suggest a compartment of a trusted operating system, *see* page 3 of the New Office Action. Thus, *Franco* appears to be relied upon for the mere teaching of an ability to drag and drop a graphical representation of an interactive link, e.g., onto a recipient computer's desktop. However, the New Office Action asserts that *Stoecker* teaches a compartment of a trusted operating system, citing to col. 5, lines 13-28 of *Stoecker*. For the Board's convenience, the relied-upon portion of *Stoecker* is produced below as follows:

      Apparatus for testing a telecommunications management network (TMN) agent is pictured in FIGS. 1, 5, 6, 26 & 27, and may generally comprise one or more computer readable storage mediums, and computer readable program code stored in the one or more computer readable storage mediums. A first portion of the computer readable program code 100, 108 (FIG. 1) may comprise code (FIGS. 5 & 26) for building an internal

containment tree 700 (FIG. 7) which mirrors the run-time containment tree
228 (FIG. 2) of a TMN agent 212, wherein the internal containment tree 700
comprises a number of nodes 702, 704 corresponding to managed objects 220,
222 in a run-time containment tree 228. A second portion of the code 108 may
comprise code (FIG. 6) for generating tests 110 for each node 702, 704 of the
internal containment tree 700. A third portion of the code 116 may comprise
code (FIG. 27) for executing the generated tests 110. *(Col. 5, lines 13-28)*.

While *Stoecker* mentions a containment tree, *Stoecker* fails to teach or suggest a
compartment of a trusted operating system. *Stoecker* mentions that TMN standards refer to a
containment tree that specifies a relationship between managed objects. However, the
containment tree is not taught by *Stoecker* as being a compartment of a trusted operating
system. At best, *Stoecker* teaches an application running on a system (which undoubtedly
includes an operating system), where the application implements a containment tree.
Stoecker makes no mention of its operating system and fails to provide any teaching
whatsoever of a trusted operating system that comprises a compartment for containment.
Thus, even if, *arguendo*, the application in *Stoecker* implementing a containment tree is
considered as implementing a compartment, *Stoecker* fails to provide any teaching
whatsoever of a trusted operating system comprising such compartment, but instead *Stoecker*
expressly teaches an application executing on top of an operating system (e.g., in application
space) implementing such containment tree. Neither of *Stoecker* and *Franco* is directed to a
trusted operating system, such as the exemplary trusted operating systems described in the
specification of the present application.

Stoecker addresses systems and methods for testing of a telecommunications
management network (TMN) agent prior to the development, installation and configuration
of a TMN manager, *see* col. 1, lines 7-11 of *Stoecker*. While a containment tree may be used
in accordance with TMN standards for specifying a relationship between managed objects,
Stoecker provides no teaching or suggestion of a trusted operating system that comprises a
compartment.

Further, even assuming *arguendo* that the containment tree of *Stoecker* is a
compartment of a trusted operating system (without conceding this point), *Stoecker* provides
no teaching or suggestion of a graphical representation of such a compartment. Further still,
Stoecker provides no teaching or suggestion of enabling an application to be dragged and
dropped onto a graphical representation of a compartment, and in response thereto

automatically install the application in the compartment.

In view of the above, neither *Franco* nor *Stoecker* teaches or suggests a graphical representation of a compartment of a trusted operating system. Further, neither of the applied references teaches or suggests dragging and dropping of a graphical representation of an application on a graphical representation of a compartment and automatically installing the application in the compartment in response to such dropping. Neither *Franco* nor *Stoecker* provide any teaching or suggestion of installing an application into a compartment of a trusted operating system, and certainly fail to teach or suggest installation via a drag and drop technique such as that recited by claim 1.

Accordingly, the applied combination fails to teach or suggest all elements of independent claim 1, and therefore the rejection of claim 1 should be overturned.

Also, dependent claims 3, 6-7, and 9-11 depend either directly or indirectly from claim 1, thus inheriting all of the limitations of independent claim 1. Dependent claims 3, 6-7, and 9-11 are allowable over the applied combination of *Franco* and *Stoecker* at least for the reasons discussed above with claim 1. Therefore, Appellant respectfully requests that the Board overturn the rejection of claims 3, 6-7, and 9-11.

Dependent Claim 2

Dependent claim 2 depends indirectly from independent claim 1, and thus includes all of the limitations of claim 1 in addition to its own supplied limitations. It is respectfully submitted that dependent claim 2 is allowable at least because of its dependence from claim 1 for the reasons discussed above.

Claim 2 further recites:

> automatically determining one or more supporting resources associated
> with said selected application;
>   automatically retrieving said supporting resources; and
>   automatically installing said supporting resources within said selected
> compartment.

The combination of *Franco* and *Stoecker* fails to teach or suggest these further elements of claim 2. Neither *Franco* nor *Stoecker* teach or suggest automatically installing supporting resources associated with a selected application within a selected compartment. Again, as discussed above with claim 1, neither *Franco* nor *Stoecker* teaches or suggests a compartment of a trusted operating system.

Thus, in view of the above, the rejection of claim 2 should be overturned.

Independent Claim 12 and Dependent Claims 14-16

Independent claim 12 recites:

> A method for installing an application in a compartment-based trusted operating system, comprising:
> displaying a graphical representation of a plurality of compartments of said trusted operating system;
> enabling dragging of a graphical representation of said application towards a graphical representation of a compartment of said plurality of compartments;
> enabling dropping of said graphical representation of said application on said graphical representation of said compartment; and
> automatically installing said application in said selected compartment in response to said dropping of said graphical representation of said compartment.

The combination of *Franco* and *Stoecker* fails to teach or suggest all of the above elements of claim 12. For instance, as discussed above with claim 1, the applied combination fails to teach or suggest a graphical representation of a plurality compartments of a trusted operating system. Further, while *Franco* appears to mention dragging and dropping of applications onto a recipient computer (e.g., onto the recipient computer's desktop), neither *Franco* nor *Stoecker* teaches or suggests dragging and dropping an application <u>on a graphical representation of a compartment</u> and automatically installing the application <u>in the selected compartment</u> in response to such dropping, as discussed above with claim 1.

Accordingly, the applied combination fails to teach or suggest all elements of independent claim 12, and therefore the rejection of claim 12 should be overturned.

Also, dependent claims 14-16 depend either directly or indirectly from claim 12, thus inheriting all of the limitations of independent claim 12. Dependent claims 14-16 are

allowable over the applied combination of *Franco* and *Stoecker* at least for the reasons discussed above with claim 12. Therefore, Appellant respectfully requests that the Board overturn the rejection of claims 14-16.

Dependent Claim 13

Dependent claim 13 depends indirectly from independent claim 12, and thus includes all of the limitations of claim 12 in addition to its own supplied limitations. It is respectfully submitted that dependent claim 13 is allowable at least because of its dependence from claim 12 for the reasons discussed above.

Claim 13 further recites:

> automatically determining one or more supporting resources associated with said application;
> automatically retrieving said supporting resources; and
> automatically installing said supporting resources within said selected compartment.

The combination of *Franco* and *Stoecker* fails to teach or suggest these further elements of claim 13. Neither *Franco* nor *Stoecker* teach or suggest automatically installing supporting resources associated with a selected application within a selected compartment. Again, as discussed above with claim 1, neither *Franco* nor *Stoecker* teaches or suggests a compartment of a trusted operating system.

Thus, in view of the above, the rejection of claim 13 should be overturned.

Independent Claim 17 and Dependent Claims 19 and 21

Independent claim 17 recites:

> A graphical software installation tool for installing an application in a trusted operating system, comprising:
> a graphical user interface, comprising:
> a display portion displaying at least one compartment of said trusted operating system; and
> an application portion comprising a graphical representation of at least one application, said graphical representation of said at least one application operable to be dragged from said application portion to said

display portion, wherein dropping of said graphical representation of said at least one application on a graphical representation of said at least one compartment causes automatic installation of said application in said compartment.

The combination of *Franco* and *Stoecker* fails to teach or suggest all of the above elements of claim 17. For instance, neither *Franco* nor *Stoecker* is concerned with installing an application in a compartment of a trusted operating system, and neither reference provides any teaching or suggestion of a graphical installation tool for so installing an application. Further, as discussed above with claim 1, the applied combination fails to teach or suggest a graphical user interface comprising a display portion displaying at least one compartment of a trusted operating system. Further still, while *Franco* appears to mention dragging and dropping of applications onto a recipient computer (e.g., onto the recipient computer's desktop), neither *Franco* nor *Stoecker* teaches or suggests dragging and dropping of a graphical representation of an application on a graphical representation of a compartment to cause automatic installation of the application in the compartment, as discussed above with claim 1.

Accordingly, the applied combination fails to teach or suggest all elements of independent claim 17, and therefore the rejection of claim 17 should be overturned.

Also, dependent claims 19 and 21 depend either directly or indirectly from claim 17, thus inheriting all of the limitations of independent claim 17. Dependent claims 19 and 21 are allowable over the applied combination of *Franco* and *Stoecker* at least for the reasons discussed above with claim 1. Therefore, Appellant respectfully requests that the Board overturn the rejection of claims 19 and 21.

Dependent Claim 18

Dependent claim 18 depends indirectly from independent claim 17, and thus includes all of the limitations of claim 17 in addition to its own supplied limitations. It is respectfully submitted that dependent claim 18 is allowable at least because of its dependence from claim 17 for the reasons discussed above.

Claim 18 further recites:

> means for automatically determining one or more supporting resources associated with said at least one application;
> means for automatically retrieving said supporting resources; and
> means for automatically installing said supporting resources within said at least one compartment.

The combination of *Franco* and *Stoecker* fails to teach or suggest these further elements of claim 18. Neither *Franco* nor *Stoecker* teach or suggest means for automatically installing supporting resources associated with a selected application within a selected compartment. Again, as discussed above with claim 1, neither *Franco* nor *Stoecker* teaches or suggests a compartment of a trusted operating system.

Thus, in view of the above, the rejection of claim 18 should be overturned.

Independent Claim 22 and Dependent Claim 24

Independent claim 22 recites:

> A method for installing an application in a trusted operating system, comprising:
> enabling selection of an application from one or more applications;
> enabling association of said selected application with a compartment of the trusted operating system; and
> automatically installing said selected application in said selected compartment in response to said association of said selected application with said selected compartment.

The combination of *Franco* and *Stoecker* fails to teach or suggest all of the above elements of claim 22. For instance, neither *Franco* nor *Stoecker* is concerned with installing an application in a compartment of a trusted operating system, and neither reference provides any teaching or suggestion of a method for such installation. Further, the applied combination fails to teach or suggest enabling association of a selected application with a compartment of a trusted operating system. Further still, the application combination fails to teach or suggest automatically installing the selected application in the selected compartment in response to the association of the selected application with the selected compartment. Again, as discussed in greater detail above with claim 1, neither *Franco* nor *Stoecker* teaches or suggests automatically installing an application in a selected compartment of a trusted

operating system.

Accordingly, the applied combination fails to teach or suggest all elements of independent claim 22, and therefore the rejection of claim 22 should be overturned.

Also, dependent claim 24 depend either directly or indirectly from claim 22, thus inheriting all of the limitations of independent claim 22. Dependent claim 24 are allowable over the applied combination of *Franco* and *Stoecker* at least for the reasons discussed above with claim 1. Therefore, Appellant respectfully requests that the Board overturn the rejection of claim 24.

Dependent Claim 23

Dependent claim 23 depends indirectly from independent claim 22, and thus includes all of the limitations of claim 22 in addition to its own supplied limitations. It is respectfully submitted that dependent claim 23 is allowable at least because of its dependence from claim 22 for the reasons discussed above.

Claim 23 further recites:

wherein said enabling association of said selected application
comprises:
enabling dragging of a graphical representation of said selected application towards a graphical representation of said selected compartment; and
enabling dropping of said graphical representation of said selected application on said graphical representation of said selected compartment.

The combination of *Franco* and *Stoecker* fails to teach or suggest these further elements of claim 23. Neither *Franco* nor *Stoecker* teach or suggest a graphical representation of a compartment, nor do they teach or suggest enabling dropping of a graphical representation of an application on a graphical representation of the compartment.

Thus, in view of the above, the rejection of claim 23 should be overturned.

ii. Insufficient Motivation to Combine Reference Teachings

It is well settled that the fact that references can be combined or modified is not sufficient to establish a prima facie case of obviousness, *see* M.P.E.P. § 2143.01. "There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination" and "[t]hat knowledge can not come from the applicant's invention itself." *In re Oetiker*, 977 F.2d 1443, 1447, 24 U.S.P.Q.2d 1443, 1446 (Fed. Cir. 1992). The New Office Action fails to establish sufficient motivation for combining the teachings of *Franco* and *Stoecker* in the manner applied.

The only reasoning offered in the New Office Action as motivation for combining the teaching of *Stoecker* with that of *Franco* is as follows: "The modification would be obvious because one of ordinary skill in the art would be motivated to maintain software in containment." Page 3 of the New Office Action. This is clearly insufficient for establishing motivation for combining the references because it is a mere statement that one would be motivated to combine the containment tree of *Stoecker* with the system of *Franco* so that containment would be achieved. This merely asserts a result that may be achieved from the combination without identifying any teaching or suggestion that would lead one of ordinary skill in the art to make the combination. In other words, the recited motivation is circular in nature, stating that it is obvious to include a containment tree so as to obtain the benefits of including a containment tree. This is thus merely a statement that the references can be combined and provides no motivation for making the combination. Any such motivation appears to be gained solely from impermissible hindsight, using the teaching of Applicant's disclosure, as no teaching that would motivate one of ordinary skill in the art to make such a modification has been identified by the Examiner.

Indeed, the lack of motivation is particularly problematic considering that *Franco* and *Stoecker* address different technological concerns. For instance, *Franco* is directed to techniques for delivering interactive links (e.g., hyperlink) to a recipient computer (*see e.g.,* Abstract of *Franco*), whereas *Stoecker* is directed to techniques for testing a telecommunications management network (TMN) agent (*see e.g.,* Abstract of *Stoecker*). No motivation has been identified by the Examiner that would lead one of ordinary skill in the art

considering the *Franco* techniques for delivering interactive links to look to the teachings of *Stoecker* for testing a TMN agent.

Thus, for this further reason, the rejection of claims 1-3, 6-7, 9-19, and 21-24 under 35 U.S.C. § 103(a) over *Franco* in view of *Stoecker* should be overturned.

B. Rejections Under 35 U.S.C. § 103(a) over *Franco* in view of *Stoecker* and *Bearden*

Claims 4-5, 20, and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Franco* in view of *Stoecker* and further in view of *Bearden*.

Dependent claims 4-5 depend directly or indirectly from independent claim 1, and thus include all of the limitations of claim 1 in addition to their own supplied limitations. The Examiner does not rely upon *Bearden* as teaching or suggesting the above-identified deficiencies of claim 1, nor does it do so. Thus, dependent claims 4-5 are allowable at least because of their dependence from claim 1 for the reasons discussed above.

Dependent claim 20 depends from independent claim 17, and thus includes all of the limitations of claim 17 in addition to its own supplied limitations. The Examiner does not rely upon *Bearden* as teaching or suggesting the above-identified deficiencies of claim 17, nor does it do so. Thus, dependent claim 20 is allowable at least because of its dependence from claim 17 for the reasons discussed above.

Dependent claim 25 depends from independent claim 22, and thus includes all of the limitations of claim 22 in addition to its own supplied limitations. The Examiner does not rely upon *Bearden* as teaching or suggesting the above-identified deficiencies of claim 22, nor does it do so. Thus, dependent claim 25 is allowable at least because of its dependence from claim 22 for the reasons discussed above.

C. Rejection Under 35 U.S.C. § 103(a) over *Franco* in view of *Stoecker* and *Anderson*

Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Franco* in view of *Stoecker* and further in view of *Anderson*.

Dependent claim 8 depends from independent claim 1, and thus includes all of the limitations of claim 1 in addition to its own supplied limitations. The Examiner does not rely upon *Anderson* as teaching or suggesting the above-identified deficiencies of claim 1, nor does it do so. Thus, dependent claim 8 is allowable at least because of its dependence from claim 1 for the reasons discussed above.

D. Conclusion

In view of the above, Appellant requests that the board overturn the outstanding rejections of claims 1-25. Attached hereto are a Claims Appendix, Evidence Appendix, and Related Proceedings Appendix. As noted in the attached Evidence Appendix, no evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the examiner is being submitted. Also, as noted by the Related Proceedings Appendix, no related proceedings are referenced in II above, and thus no copies of decisions in related proceedings are provided.

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Label No. EV 568241048US in an envelope addressed to: M/S Appeal Brief-Patents, Commissioner for Patents, Alexandria, VA 22313.

Date of Deposit: September 5, 2006

Typed Name: Gail L. Miller

Signature: _Gail L. Miller_

Respectfully submitted,

By: _____
    Jody C. Bishop
    Attorney/Agent for Applicant(s)
    Reg. No. 44,034
    Date: September 5, 2006
    Telephone No. (214) 855-8007

VIII. CLAIMS APPENDIX

Claims Involved in the Appeal of Application Serial No. 10/013,043

1.   A method for installing an application in a trusted operating system, comprising:

enabling selection of an application from one or more applications;

enabling dragging of a graphical representation of said selected application towards a graphical representation of a compartment of said trusted operating system;

enabling dropping of said graphical representation of said application on said graphical representation of said compartment; and

automatically installing said selected application in said selected compartment in response to said dropping of said graphical representation of said selected application.

2.   The method of claim 1, further comprising:

automatically determining one or more supporting resources associated with said selected application;

automatically retrieving said supporting resources; and

automatically installing said supporting resources within said selected compartment.

3.   The method of claim 1, further comprising:

automatically determining access controls for one or more files associated with said selected application; and

automatically setting said determined access controls for said one or more files.

4.   The method of claim 3, further comprising displaying said access controls along with the files with which said access controls are associated.

5.   The method of claim 3, further comprising modifying said access controls in response to a user input.

6.   The method of claim 2, wherein said automatically determining one or more supporting resources comprises automatically selecting one or more library files.

7.   The method of claim 2, wherein said automatically determining one or more supporting resources comprises automatically selecting one or more configuration files.

8.   The method of claim 2, wherein said automatically determining one or more supporting resources comprises querying an executable file of said selected application to automatically determine said one or more supporting resources associated with said application.

9.   The method of claim 3, wherein said automatically determining access controls comprises automatically determining access controls for at least one of said files based at least in part on the type of the file.

10.   The method of claim 3, wherein said automatically determining access controls comprises automatically determining access controls for at least one of said files based at least in part on the location of the file.

11.   The method of claim 1, wherein said enabling dropping of said graphical representation of said application on said graphical representation of said compartment comprises enabling dropping of said graphical representation of said application in close proximity to said graphical representation of said compartment.

12.   A method for installing an application in a compartment-based trusted operating system, comprising:

        displaying a graphical representation of a plurality of compartments of said trusted operating system;

        enabling dragging of a graphical representation of said application towards a graphical representation of a compartment of said plurality of compartments;

        enabling dropping of said graphical representation of said application on said graphical representation of said compartment; and

        automatically installing said application in said selected compartment in response to said dropping of said graphical representation of said compartment.

13.   The method of claim 12, further comprising:

automatically determining one or more supporting resources associated with said application;

automatically retrieving said supporting resources; and

automatically installing said supporting resources within said selected compartment.

14.   The method of claim 12, further comprising:

automatically determining access controls for one or more files associated with said selected application; and

automatically setting said determined access controls for said one or more files.

15.   The method of claim 14, further comprising assigning a compartment label unique to said compartment to each of said supporting resources.

16.   The method of claim 12, wherein said enabling dropping of said graphical representation of said application on said graphical representation of said compartment comprises enabling dropping of said graphical representation of said application in close proximity to said graphical representation of said compartment.

17.   A graphical software installation tool for installing an application in a trusted operating system, comprising:

a graphical user interface, comprising:

a display portion displaying at least one compartment of said trusted operating system; and

an application portion comprising a graphical representation of at least one application, said graphical representation of said at least one application operable to be dragged from said application portion to said display portion, wherein dropping of said graphical representation of said at least one application on a graphical representation of said at least one compartment causes automatic installation of said application in said compartment.

18.   The graphical software installation tool of claim 17, further comprising:

means for automatically determining one or more supporting resources associated with said at least one application;

means for automatically retrieving said supporting resources; and

means for automatically installing said supporting resources within said at least one compartment.

19.   The graphical software installation tool of claim 17, further comprising:

means for automatically determining access controls for one or more files associated with said at least one application; and

means for automatically setting said determined access controls for said one or more files.

20.   The graphical software installation tool of claim 19, further comprising:

means for displaying said access controls along with the files with which said access controls are associated; and

means for modifying said access controls in response to a user input.

21.   The graphical software installation tool of claim 19, wherein said means for automatically determining access controls comprises:

means for automatically determining access controls for at least one of said files based at least in part on the type of the file; and

means for automatically determining access controls for at least another one of said files based at least in part on the location of the file.

22.   A method for installing an application in a trusted operating system, comprising:

enabling selection of an application from one or more applications;

enabling association of said selected application with a compartment of the trusted operating system; and

automatically installing said selected application in said selected compartment in response to said association of said selected application with said selected compartment.

23.   The method of claim 22, wherein said enabling association of said selected application comprises:

enabling dragging of a graphical representation of said selected application towards a graphical representation of said selected compartment; and

enabling dropping of said graphical representation of said selected application on said graphical representation of said selected compartment.

24.   The method of claim 23, wherein said enabling dropping of said graphical representation of said selected application on said graphical representation of said selected compartment comprises enabling dropping of said graphical representation of said selected application in close proximity to said graphical representation of said selected compartment.

25.   The method of claim 22, further comprising:

automatically determining access controls for one or more files associated with said selected application;

automatically setting said determined access controls for said one or more files;

displaying said access controls along with the files with which said access controls are associated; and
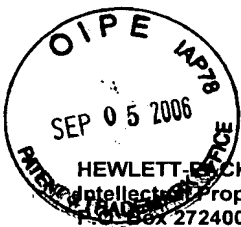
modifying said access controls in response to a user input.

IX. EVIDENCE APPENDIX

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the examiner is being submitted.

X. RELATED PROCEEDINGS APPENDIX

No related proceedings are referenced in II above, and thus no copies of decisions in related proceedings are provided.

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PATENT APPLICATION

ATTORNEY DOCKET NO. ___10013500-1___

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Joubert Berger et al.	Confirmation No.: 7770
Application No.: 10/013,043	Examiner: Qamrun Nahar
Filing Date: 10/30/2001	Group Art Unit: 2191

Title: SYSTEM AND METHOD FOR INSTALLING APPLICATIONS IN A TRUSTED ENVIRONMENT

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Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on ___July 5, 2006___.

The fee for filing this Appeal Brief is covered by the Appeal Brief filed October 3, 2005.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐(a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

☐ 1st Month $120	☐ 2nd Month $450	☐ 3rd Month $1020	☐ 4th Month $1590

☐ The extension fee has already been filed in this application.

☐(b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of _____. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

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Date of Deposit: September 5, 2006

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Rev 10/05 (AplBrief)